

## **REMARKS**

Reconsideration of the application is requested in view of the amendment to the claims and the remarks presented herein.

The claims in the application are claims 1, 3, 5 to 7, 10, 12 to 22 and 36 to 48. Claim 41 has been rewritten in independent form and claims 41 to 45 should now be allowed as indicated by the Examiner. The rejection of claim 19 under 35 USC 112, second paragraph has been amended as suggested by the Examiner is obviated.

Claims 1, 5, 7, 10, 12, 13, 15 to 19 and 46 to 48 were rejected under 35 USC 102 as being anticipated by the Forquy et al patent and claim 3 and 6 have been rejected under 35 USC 103 as being obvious over Forquy et al taken in view of Ito et al. The Examiner states that Forquy et al taken in view of Ito et al. The Examiner states that Forquy et al discloses a catalyst of ruthenium sulfide in bulk or supported form and a mixture of ruthenium sulfide and at least one other transition metal such as cobalt. The Ito et al patent is cited to show carbons having a BET surface area of 240 m<sup>2</sup>/g.

Applicants respectfully traverse these grounds of rejection since the Forquy patent taken alone or in combination with Ito neither anticipates or renders obvious Applicants' invention. The claims have been limited to a carbon black support which is supported by lines 10 to 14 of page 7 which reads "In one preferred embodiment, incorporation of the catalyst of the invention into gas diffusion electrode structure is

facilitated by supporting the catalyst on a conductive inert support, such as carbon black. In this case, it is preferred that the carbon support be a high surface area carbon black, for instance carbon black having a surface exceeding  $120 \text{ m}^2/\text{g}$ .”

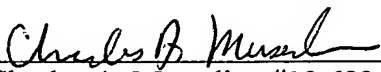
The Forquy patent rejection is based on the Examiner’s assumption that on active carbon is per se a conductive support and therefor is inherently suitable for use as an electrocatalyst support which is obviously wrong. Secondly, Forquy et al. simply does not anticipate our invention, which is directed to a carbon black supported cobalt and ruthenium sulfide. Forquy et al is directed to ruthenium sulfide on any possible inert support, optionally comprising at least one other transition metal selected from a long list. As far as novelty is concerned, claim 1 is at the very least to be regarded as a purposive selection over Forquy et al, which therefore does not anticipate the invention.

As regards to inventiveness, Forquy et al belong to an unrelated field of application (heterogeneous catalysis vs. electrocatalysis, and dehydrogenation vs. oxygen reduction) that one skilled in the art would never have contemplated selecting such document to derive any useful teaching for making an electrocatalyst for oxygen reduction. All grounds of rejection based on Forquy et al are hence moot. In particular, combining Forquy et al with Ito et al to reject present claim 3 is clearly not admissible. Therefore, withdrawal of these grounds of rejection is requested.

In view of the amendments to the claims and the above remarks, it is believed that

the claims point out Applicants' patentable contribution and therefore, favorable reconsideration is requested.

Respectfully submitted,  
Hedman and Costigan

  
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Charles A. Muserlian #19,683  
Attorney for Applicants  
Tel. #212 302 8989

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Enclosures